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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE H.L. DATTU

WRIT PETITION NO. 18850/1997

BETWEEN:

Sri C. Dasegowda
major, No.292, 13th Main
Saraswathipuram, Mysore. Petitioner.

(By Smt. Sonavakkund, Adv. for M.B. Nargund)

AND:

The Chairman
Mysore Urban Development
Authority, Jhansi Rani Lakshmi
Bai Road, Mysore. Respondent.

(By Sri P.S. Manjunath, Adv.)

This W.P. is filed under Arts.226 & 227 of the Constitution of India, praying to direct the respondent-authority to regularise the allotment of Room No.48 in Duplin Complex opposite Devaraj market of the petitioner, etc.

This W.P. coming on for Preliminary hearing 'B' group this day, the Court made the following:

ORDER

Petitioner is a Legal Practitioner and he is before this Court for a direction to the Mysore Urban Development Authority, Mysore, to regularise the allotment of Room No.48, in Duplin Complex, opposite to Devaraj Market, Mysore.

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2. In support of the relief sought in the writ petition, petitioner asserts that the Mysore Urban Development Authority had allotted a room bearing No.48 in Duplin Complex measuring nearly 102 sq.ft. and this allotment was done some time in the month of January, 1983. It is also stated that ~~because of~~^{but by} the reasons best known to the Chairman, the allotment so made was cancelled some time in the month of July, 1983.

3. Being aggrieved by the aforesaid order, petitioner had approached this Court in W.P.15742/1983. This Court by its order dated 13.8.1990 was pleased to allow the writ petition and was further pleased to quash the endorsement cancelling the allotment made in favour of the petitioner. Further, this Court was pleased to direct the respondent-authority to receive the balance price and register the sale deed in favour of the allottee/s

4. Aggrieved by the order made by this Court in the aforesaid writ petition, respondent-authority had preferred an appeal before this Court in W.A.934 to 941/1991 and this Court by its order dated 28.2.1994 was pleased to remand the matter to the Urban Development Authority to pass a

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fresh order in accordance with law.

5. The petitioner asserts that after such remand made by a Bench of this Court in the aforesaid writ appeals, a show cause notice had been issued by the respondent-authority interalia directing the petitioner to file his objections before cancellation of the allotment. It is also stated that pursuant to such notice, petitioner has filed his detailed objections requesting the authorities to drop the proceedings. It is stated by the petitioner in this writ petition that since nothing has been done by the respondents after issuing the aforesaid notice, having waited for quite some time, he has approached this Court for a direction to the respondents to regularise the allotment in favour of the petitioner.

6. Petitioner has also filed an additional statement bringing to the notice of this Court that he is willing to deposit a sum of Rs.50,000/- by way of initial deposit for regularisation of the allotment of the room No.48 in Duplin Complex and he has also stated that he is prepared to pay the differential amount after it is determined by the respondent-authority.

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7. It is not disputed by the respondent-authorities that the room No.48 had been allotted in favour of the petitioner. It is also not in dispute that a notice had been issued to the petitioner asking the petitioner to show cause why the allotment should not be cancelled and petitioner pursuant to such notice has filed his objections. Even till to this day, respondents have not passed any orders pursuant to the notice issued by them. In my view, I do not think the respondents are still interested in pursuing the show cause notice issued by them. In view of that, this is one of the rarest of rare cases where this Court should direct the respondent-authorities to consider the request made by the petitioner for *regularisation in allotment.*

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8. Petitioner has also stated that on the date of allotment of the aforesaid room, the respondents had directed the petitioner to deposit a sum of Rs.39,400/-. Now there must be escalation of prices and petitioner might have to pay something more for the regularisation of the allotment. Petitioner on his own has volunteered to deposit a sum of Rs.50,000/- with the respondent-authorities to prove his bonafides and anxiety to get the allotment regularised by the respondent-authority.

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9. Taking into consideration all these aspects of the matter, I am of the view that the direction so sought for by the petitioner in this writ petition requires to be granted. Accordingly, writ petition is disposed of. A direction is issued to the Mysore Urban Development Authority to regularise the allotment made in favour of the petitioner by their allotment letter dated 12.1.1983 subject to the petitioner depositing a sum of Rs.50,000/- within four weeks from today. After such deposit, the respondents shall regularise the allotment. The respondents are also at liberty to claim the differential amount from the petitioner keeping in view the earlier price fixed by them at the time of allotment.

10. With these observations and directions, writ petition is disposed of. Ordered accordingly.

Sd/-
JUDGE

BMM/30061998

